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10/723,005	11/26/2003	Takashi Ichikawa	1018.1193101	9569

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CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

EXAMINER

BROWN, DREW J

ART UNIT PAPER NUMBER

3616

DATE MAILED: 04/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/723,005

Applicant(s)

ICHIKAWA ET AL.

Examiner

Drew J. Brown

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2/24/06 (amendment).
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16 and 17 is/are allowed.
- 6) ☒ Claim(s) 1,3-11 and 13-15 is/are rejected.
- 7) ☒ Claim(s) 2 and 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3, 4, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rhodes et al. (U.S. Pat. No. 3,465,559) in view of Boersma (U.S. Pat. No. 4,131,173).

With respect to claim 1, Rhodes et al. discloses a gearshift operator (24) arranged in the passenger compartment, and engine operator (18) arranged near the gearshift operator.

With respect to claim 3, the engine operator and the gearshift operator each includes a switch (gearshift operator switch is the lever 24 that changes the gear) for generating a signal representing the present operation state.

With respect to claim 4, the gearshift operator is arranged in the instrument panel (30) and includes an operation member (26) operated to switch gearshift ranges of the transmission. The operation member is normally located at a neutral position (column 1, lines 48-51), and it is operated and moved to an upward position or a downward position from the neutral position, and is returned to the neutral position after being operated. It would have been obvious to one having ordinary skill in the art at the time the invention was made for a user to return the operation member to the neutral position after being operated because it is well known that many users do return to the neutral position and apply the emergency brake so the vehicle will not move once placed in "Park".

With respect to claim 9, the vehicle includes an instrument panel (30), a driver seat, a passenger seat, and the operation apparatus is arranged in an instrument panel between the driver seat and the passenger seat. Although it does not specifically disclose that the instrument panel is located between the driver seat and the passenger seat, it is obvious that it is located between

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the two because it is well known in the art that instrument panels are located between the two so users sitting in either seat can access the controls on the instrument panel.

With respect to claim 1, Rhodes et al. does not disclose a single shutter that covers both the gearshift operator and the engine operator so that the gearshift operator and the engine operator cannot be seen from outside the vehicle and cannot be operated. However, Boersma et al. does disclose a single shutter (40) that is arranged on an instrument panel (30) to cover controls (Figure 3), so that the controls cannot be seen from outside of the vehicle and cannot be operated.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention of Rhodes et al. in view of the teachings of Boersma to cover the gearshift operator and engine operator with a single shutter in order to protect the vehicle from vandalism or theft.

3. Claims 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rhodes et al. in view of Boersma, and further in view of Leigh-Monstevens et al. (U.S. Pat. No. 5,014,038).

With respect to claim 5, the combination of Rhodes et al. and Boersma discloses the claimed invention as discussed above but does not disclose that the gearshift operator includes a plurality of switches, where each switch is associated with at least one of the ranges of the transmission.

However, Leigh-Monstevens et al. does disclose a gearshift operator with a plurality of switches (96, Figure 1), each switch associated with at least one of the ranges of the transmission.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the combination of Rhodes et al. and Boersma in view of the teachings of Leigh-Monstevens et al. to have the gearshift operator consists of a plurality of switches in order to avoid driver confusion as to what gear the vehicle is in.

With respect to claim 6, Leigh-Monstevens discloses that the plurality of switches includes a gearshift switch for switching the gearshift ranges of the transmission in a sequential manner (Abstract and column 6, lines 49-63), and that a parking switch is operated to switch the transmission to a parking range (Figure 1 and column 6, lines 14-25).

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With respect to claim 7, Rhodes et al. discloses that the gearshift switch is a lever switch (Figure 1), and Leigh-Monstevens discloses that the parking switch is a push button (Figure 1).

With respect to claim 8, Leigh-Monstevens also discloses that the gearshift range is directly switched to the parking range regardless of the present gearshift range if the parking switch is pushed when the velocity of the vehicle is zero (column 2, lines 25-33).

4. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rhodes et al. in view of Boersma, and further in view of Harada et al. (U.S. Pat. No. 6,948,469 B2).

The combination of Rhodes et al. and Boersma discloses the claimed invention as discussed above but does not disclose that the engine operator includes a push button switch to start the engine and stop the engine.

However, Harada et al. does disclose an engine push button (21) used to start the engine and stop the engine (column 3, lines 10-15).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the combination of Rhodes et al. and Boersma in view of the teachings of Harada et al. to include a push button switch for the engine operator so it is easier to start the engine because a key is not needed.

5. Claims 11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rhodes et al. in view of Boersma, and further in view of Flick (U.S. Pat. No. 6,812,829 B1).

The combination of Rhodes and Boersma discloses the claimed invention as discussed above but does not disclose that an authorized key is capable of performing communication with a communication circuit, and that a controller is connected to the communication circuit, the gearshift operator, and the engine operator to control the transmission, where the controller invalidates the operation of the gearshift operator and the engine operator when communication with the authorized key is not established.

However, Flick does disclose an authorized key capable of performing communication with a communication circuit that is connected to a controller (Abstract).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the combination of Rhodes et al. and Boersma in view of the teachings of Flick to have an authorized key communicate with a communication circuit in order to control specific vehicle functions while being distant from the vehicle.

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With respect to claim 13, Rhodes et al. discloses that the engine operator and the gearshift operator each include a switch (gearshift operator switch is the lever 24 that changes the gear) for generating a signal representing the present operation state.

6. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rhodes et al. in view of Boersma, and further in view of Flick and Leigh-Monstevens et al.

The combination of Rhodes et al., Boersma, and Flick discloses the claimed invention as discussed above, and Rhodes et al. also discloses that a gearshift lever is normally located at a neutral position (column 1, lines 48-51), and it is operated and moved to an upward position or a downward position from the neutral position, and is returned to the neutral position after being operated.

The combination does not disclose that the lever switches the gearshift ranges in a sequential manner, that the gearshift operator includes a plurality of switches, where each one is associated with at least one of a plurality of gearshift ranges of the transmission, or that a push button switch switches directly to a parking range from the present gearshift range.

However, Leigh-Monstevens discloses a plurality of switches (Figure 1) includes a gearshift switch for switching the gearshift ranges of the transmission in a sequential manner (Abstract and column 6, lines 49-63), and that a push button switch is operated to switch the transmission to a parking range (Figure 1 and column 6, lines 14-25).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the invention of Rhodes et al., Boersma, and Flick in view of the teachings of Leigh-Monstevens et al. in order to avoid driver confusion as to what gear the vehicle is in. It would also have been obvious to have a gearshift switch for switching the gearshift ranges in a sequential manner to keep the engine and transmission safe from damage due to accidental shifting. Finally, it would have been obvious to have a push button switch that switches to a parking range from the present gearshift range so the driving gears are kept separate from the parking gear.

7. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rhodes et al. in view of Boersma, and further in view of Flick, Leigh-Monstevens et al., and Harada et al.

The combination of Rhodes et al., Boersma, Flick, and Leigh-Monstevens discloses the claimed invention as discussed above but does not disclose that the engine operator includes a push button switch to start the engine and stop the engine.

However, Harada et al. does disclose an engine push button (21) used to start the engine and stop the engine (column 3, lines 10-15).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the combination of Rhodes et al. and Boersma in view of the teachings of Harada et al. to include a push button switch for the engine operator so it is easier to start the engine because a key is not needed.

Allowable Subject Matter

8. Claims 2 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
9. Claims 16 and 17 are allowed.

Response to Arguments

10. Applicant's arguments filed on 2/24/06 have been fully considered but they are not persuasive.

In response to applicant's argument that there is no suggestion to combine the references of Rhodes et al. and Boersma, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Boersma discloses that the shutter is used to prevent access to the controls of the vehicle, which in turn, also hides them from sight outside the vehicle to maintain the integrity of the instrument panel (column 3, lines 15-24).

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew J. Brown whose telephone number is 571-272-1362. The examiner can normally be reached on Monday-Thursday from 8 a.m. to 4 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul N. Dickson can be reached on 571-272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Drew J. Brown
Examiner
Art Unit 3616

DJB
4/6/06

 4/6/06
PAUL N. DICKSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600